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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 004109

SIPDIS

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TAGS: PGOV PNAT PHUM IZ

SUBJECT: CONDITIONAL DEAL TO FIX THE REFERENDUM LAW PROBLEM IN RETURN FOR SECURITY GUARANTEES.

REF: BAGHDAD 4090

Classified By: DCM David M. Satterfield for reasons 1.4 (b) and (d).

¶11. (C) SUMMARY. DCM, UK Charge, and Acting UN Special Representative of the Secretary General (SRSG) Schulenburg met with Deputy Speaker Shahrastani and VP Adel Abd al-Mahdi October 4 to discuss the TNA's October 2 "double standard" interpretation of the word "nakhabeen" in TAL 61(c) as both actual voter and registered voter (reftel). Shahrastani described the measure as an important balancing mechanism to address the effects of terrorist intimidation in Salahadin and Diyala provinces on voter turnout. The DCM told Shahrastani that these concerns should be addressed by focusing on security and not on last-minute changes in voting rules. Later on October 4, after conferring with Shia Coalition members, Shahrastani and Shia Coalition official Shaykh Hamam Hamudi said the Shia Coalition leadership would to change the interpretation of "nakhabeen" to persons actually casting votes in exchange for additional security guarantees and adjustments to the administration of the referendum in specific towns in several governorates. UN election team advisor Perelli thinks some adjustments could be made to accommodate the Shia Coalition's concerns. END  
SUMMARY.

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Shahrastani: Security Concerns Reason for Resolution  
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¶12. (C) In an October 4 meeting with DCM, Acting UN SRSG and British Charge, the UN told Deputy Speaker Shahrastani and VP Adel Abd al-Mahdi that UN HQS could not support any change in voting rules, as had been the subject of the October 2 TNA resolution. Such changes would undercut the credibility of the referendum itself and compel the UN to consider withholding support. Shahrastani maintained that terrorists interested in defeating the constitution would intimidate and kill voters supporting the constitution to prevent the Shia from coming to the October 15 polls. Shahrastani said the interpretation of "nakhabeen" as "registered voters" solely for purposes of validating a two-thirds "no" vote" was necessary to compensate for the large number of voters who support the constitution but would be afraid to vote in provinces such as Salahadin and Diyala. Ayatollah Sistani would not issue a fetwa this time, Shahrastani claimed, "because he could not risk voters' lives."

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DCM Responds: Focus on Security, Not Voting Rules  
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¶13. (C) DCM seconded UN concerns and responded that the TNA's October 2 resolution damages the credibility of the referendum both domestically and internationally. He said that Sunni Arabs could challenge the legality of the process. He joined Schulenburg in stressing that the UN and international community could not support or certify the elections as "fair" with rule changes so close to the October 15 polling. The DCM offered to work closely on the security concerns so that this interpretation could be dropped.

¶14. (C) Shahrastani responded that despite its best intentions, the Coalition Forces could not completely control security. The DCM continued to emphasize addressing security as the way to address Shahrastani's concerns. Deputy President Abd' al-Mahdi interjected that the need for the UN seal of approval was extremely important, and the TNA needed to find a way forward. Based on this exchange, Shahrastani agreed to meet with Shia coalition leaders to change the October 2 resolution.

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Conditional Deal Offered  
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¶ 15. (C) In the late afternoon after meeting with Shia Coalition leaders, Shahrastani called in DCM and with SCIRI party official (and Constitution Drafting Committee Chair) Shaykh Hamam Hamudi and Kurdish Alliance parliamentary leader Fuad Masum. Shahrastani said that the Shia Coalition and Kurdish leadership agreed to adjust the resolution to define nakhabeen as those who actually cast ballots. However, there were three conditions. First, Shahrastani provided a list of 30 towns where the Shia Coalition and Kurds want additional Iraqi security focus to protect voters. He underlined these forces should remain in the towns after October 15 to prevent retaliation against voters at the hands of insurgents. Shahrastani also requested Coalition air strikes against alleged insurgent targets in Diyala; he pledged the Shia and Kurds would provide more exact information about target identities later. Such action, he said, would give the public confidence that the insurgents will be weakened before October 15. He said he would provide further information on this request for Embassy to pass to MNF-I.

¶ 16. (C) Finally, Shahrastani said that the IECI and UN election advisors should make adjustments to the administration of the election such that oversight of the polling is not in the hands of persons tied to the insurgency. He stressed that the Islamic Party's alleged control of the election administration in Diyala would enable it to indicate to insurgents who actually voted. DCM said we were already looking at measures to improve security for the referendum. He declined to give assurances on the election administration and urged Shahrastani to be in contact directly with the UN and the election commission. Shahrastani said that once assurances on the three conditions are secured, the leadership of the Shia Coalition and Kurds will go back to the TNA general membership (which they dominate).

¶ 17. (C) PolCouns in the evening called on UN election team leader Carina Perelli to review the request for adjustments on the administration of the referendum. Perelli said there were standard sorts of measures for voters threatened by insurgents. The UN team would certainly look at solutions such as giving voters a choice of places in which to vote. She was careful not to promise to change election administrations. She added that Shahrastani had not yet contacted the election commission or the UN. The election commission would need a formal request from the National Assembly, she noted. (PolCouns called Hamudi after this meeting to urge again direct contact.)

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COMMENT  
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¶ 18. (C) The Shia Coalition (and the Kurds) recognize they overreached. Now they need a way to climb down. We will continue to push for them to work with the election commission. We also will work closely with MNF-I on the security issues raised today. End comment.  
Khalilzad